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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,564	01/16/2001	Toshiaki Iizuka	36409-00600	2894
7590	01/06/2005		EXAMINER	
Christopher E. Chalsen, Esq. Milbank, Tweed, Hadley & McCloy LLP 1 Chase Manhattan Plaza New York, NY 10005-1413			PHAM, THOMAS K	
			ART UNIT	PAPER NUMBER
			2121	

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/760,564	IIZUKA, TOSHIAKI	
Examiner	Art Unit		
Thomas K Pham	2121		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 20 September 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-34 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,3-8,10-15 and 17-34 is/are rejected.

7)  Claim(s) 2,9 and 16 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

**Response to Amendment**

1. This action is in response to a request for re-consideration filed 09/20/2004.
2. Applicant's arguments with respect to claims 1, 3-8, 10-15 and 17-34 have been considered but are moot in view of the new ground(s) of rejection.
3. Claims 2, 9 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Quotations of U.S. Code Title 35**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

### **Claim Rejections - 35 USC § 103**

6. Claims 1, 3-8, 10-15, 17-28 and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,325,393 ("Barrett") in view of U.S. Patent No. 6,092,078 ("Adolfsson").

#### **Regarding claims 1, 8 and 15**

Barrett teaches an information processing apparatus capable of acquiring various status information of plural peripheral apparatus on a network (abstract), comprising: communication means for executing a communication protocol for acquiring the status information (col. 2 lines 4-11, "for obtaining status information ... to the interactive network board"); designation means for designating status information to be acquired for each of various phenomena (col. 3 lines 51-63, "provides hardware and software ... to act as a peripheral server"); acquisition means for acquiring the status information by said communication means from the supply source of the status information designated by said designation means (col. 36 lines 14-20, "CPCONSOL is a utility ... ongoing maintenance parameters"); link means for linking, by the unit of a predetermined group, parameters respectively corresponding to the objects and memorized by said memory means (col. 37 lines 26-32, "Selecting the Control menu ... in accordance with Table 3"). Barrett does not specifically teach a memory for memorizing a time-out parameter that indicates a time-out time for executing said communication protocol for each phenomenon that can be designated by said designation means; alteration means for altering the value of the parameter memorized by said memory means; and control means adapted, in case the value of the parameter is altered by said alteration means, to alter the value of a parameter linked with the altered parameter as a group according to the content of such alteration. However, Adolfsson

teaches a time-out time for executing the intelligent communication (I/O) device associate with a data buffer (col. 17 lines 62-64, "a determination is made as ... to be transferred") wherein the time-out is one of the many parameters which adapted to be alter (col. 18 lines 40-45, "A change in parameters ... the peripheral device itself" [It is inherent that the time-out parameters must be memorized in a memory or buffer before it could be changed]) for the purpose of initiating an execution of the intelligent communication for transferring updated parameters to central server. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the system of Adolfsson with the system of Barrett because it would provide for the purpose of initiating an execution of the intelligent communication for transferring updated parameters to central server.

**Regarding claims 3, 10, 17**

Barrett teaches the linking by said link means is executed in the unit of a group based on the kind of the peripheral apparatus (col. 3 lines 51-63, "provides hardware and software ... to act as a peripheral server").

**Regarding claims 4, 11, 18**

Barrett teaches the group includes a group of printers and/or a group of scanners and/or a group of modems (col. 3 lines 51-63, "provides hardware and software ... to act as a peripheral server").

**Regarding claims 5, 12, 19**

Barrett teaches wherein the linking by the link means is executed in the unit of a group based on the kind of connection between the self apparatus and the peripheral apparatus (fig. 1).

**Regarding claims 6, 13, 20**

Barrett teaches wherein the group includes a network connection group in which the self apparatus and the peripheral apparatus are connected through the network (fig. 1), and Adolfsson teaches a local connection group in which the self apparatus and the peripheral apparatus are connected directly (fig. 2).

**Regarding claims 7, 14, 21**

Adolfsson teaches wherein the network connection group includes a first group in which the peripheral apparatus is directly connected to the network (fig. 2), and Barrett teaches a second group in which the peripheral apparatus is connected through a gateway device to the through a gateway device to said network (fig. 1).

**Regarding claim 22, 28 and 34**

Barrett teaches an information processing apparatus comprising: communication means for executing communication based on a predetermined protocol for transmitting, to a peripheral apparatus on a network, request data for acquiring information held or generated by said peripheral apparatus and for receiving response data to said request data (col. 2 lines 4-11, “for obtaining status information … to the interactive network board”); activation means for designating a peripheral apparatus on said network and information to be acquired from said peripheral apparatus, and activating communication by said communication means for acquiring said designated information from said designated peripheral apparatus (col. 36 lines 14-27, “CPCONSOL is a utility program … of network communications”). Barrett does not teach memory means for memorizing a parameter in said communication protocol for each category as a plurality of groups, said parameter being a number of retries of said request data or a time-out value for the reception of said response data; and control means for reading, from said memory

means, the parameter of a category according to the type of the peripheral apparatus designated by said activation means or the information designated by said activation means, and using such parameter in the communication activated by said activation means. However, Adolfsson teaches a time-out time for executing the intelligent communication (I/O) device associate with a data buffer (col. 17 lines 62-64, "a determination is made as ... to be transferred") wherein the time-out is one of the many parameters which adapted to be alter (col. 18 lines 40-45, "A change in parameters ... the peripheral device itself" [It is inherent that the time-out parameters must be memorized in a memory or buffer before it could be changed]) for the purpose of initiating an execution of the intelligent communication for transferring updated parameters to central server. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the system of Adolfsson with the system of Barrett because it would provide for the purpose of initiating an execution of the intelligent communication for transferring updated parameters to central server.

**Regarding claims 23 and 29**

Adolfsson teaches the communication protocol is HTTP (col. 1 lines 50-53).

**Regarding claims 24 and 30**

Barrett teaches control means determines the category of the parameter to be read from the plurality of groups in said memory means (col. 37 lines 5-10, "The environment selection ... Control, and Quality"), based on the kind of service which the peripheral apparatus provides to said information processing apparatus (col. 5 lines 33-37, "Other peripheral server ... Line Printer Remote server ("LPR")").

**Regarding claims 25 and 31**

Barrett teaches control means determines the category of the parameter to be read from the plurality of groups in said memory (col. 37 lines 5-10, "The environment selection ... Control, and Quality"), based on whether the information designated by said activation means is image data or not (col. 8 lines 51-68, "The Job Pipe subsystem ... separately from Job Pipe").

### **Regarding claims 26 and 32**

Barrett teaches discrimination means for discriminating the attribute of the network to be used for access to the peripheral apparatus designated by said activation means (col. 6 lines 38-56, "To access the extended ... methodologies currently available"); wherein said control means determines a group of the parameter to be read from the plurality of groups in said memory means, based on the result of said discrimination (col. 36 lines 42-50, "By ongoing monitoring ... the print job itself").

### **Regarding claims 27 and 33**

Barrett and Adolfsson teach discrimination means for discriminating the attribute of the network to be used for access to the peripheral apparatus but do not teach whether a dial-up connection channel is used for access to the peripheral apparatus. However, it would have been obvious to one of ordinary skill in the art at the time of the invention that a dial-up connection channel is an available option to access the peripheral apparatus to either communicate as a normal or as a backup fail over connection method when the normal network is down.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (571) 272-3689, Monday to Thursday from 6:30 AM - 5:00 PM EST or contact Supervisor *Mr. Anthony Knight* at (571) 272-3687.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Thomas Pham**  
*Patent Examiner*

*TP*  
December 28, 2004

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